



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,046	11/20/2003	Joseph A. Pufahl	961-2 CIP	3499

28249 7590 03/29/2006

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

EXAMINER

PETERSON, KENNETH E

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,046

Applicant(s)

PUFAHL, JOSEPH A.

Examiner

Kenneth E. Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

1. Applicant's proposed drawing corrections have been received, but the drawings now have the following problems;

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "13" has been used to designate both the base and an angle in figure 4.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angle adjusting means having an actuator, as in claim 1, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Examiner notes that element 120 is a box that represents an angle adjusting means, but this is insufficient. 37 CFR 1.83(a) discloses a simple alternative of a graphical drawing symbol or a *labeled* box.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudolph '837, who shows a method of separating by bending as best seen in figure 7.

Rudolph shows a housing (figure 2), but no means to adjust the angle of the housing. However, it is well know problem for equipment such as this that there can be difficulties leveling it on the floor. Due to this problem, there is a cornucopia of leveling feet available. Some examples are the patents to Bergeson '989, Jackson '550 and Wilhelmstätter et al.'472. It would have been obvious to one of ordinary skill in the art to have made Rudolph's housing feet (3) be of the type that can be leveled, as is well known and taught by Bergeson '989, Jackson '550 and Wilhelmstätter et al.'472, in order to fimly position the device on the supporting surface with no wobbling or vibrating. By coincidence, these adjustable feet would constitute an angle adjusting means. Any of the nuts or screw rods could be considered the actuator. The step of adjustably moving the housing to a desired feed angle is technically met by the inherent

Art Unit: 3724

step of leveling the device with it's new adjustable feet, since the desired feed angle could be having the housing level.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honeycutt et al.'292, who shows a method of separating by bending as best seen in figure 4. The last 30 roller guide, and the 2nd to last 32 roller guide creates bends of "substantially" 180 degrees.

In regards to claim 5, Honeycutt shows a plurality of bearing rollers (1st 26 roller, 1st bottom roller) and a plurality of guides (last 30 roller, and the 2nd to last 32 roller).

Honeycutt shows a housing (10), but no means to adjust the angle of the housing. However, it is well know problem for equipment such as this that there can be difficulties leveling it on the floor. Due to this problem, there is a plethora of leveling feet available. Some examples are the patents to Bergeson '989, Jackson '550 and Wilhelmstätter et al.'472. It would have been obvious to one of ordinary skill in the art to have made Honeycutt's housing have feet be of the type that can be leveled, as is well known and taught by Bergeson '989, Jackson '550 and Wilhelmstätter et al.'472, in order to firmly position the device on the supporting surface with no wobbling or vibrating. By coincidence, these adjustable feet would constitute an angle adjusting means. Any of the nuts or screw rods could be considered the actuator. The step of adjustably moving the housing to a desired feed angle is technically met by the inherent step of leveling the device with it's new adjustable feet, since the desired feed angle could be having the housing level.

5. Applicant's arguments with respect to the prior art rejections have been considered but are moot in view of the new ground(s) of rejection.

Applicant has overcome the rejection under 35 USC 112, 1st paragraph.

Examiner appreciates that Applicant's angle adjusting step has a completely different purpose than leveling the device. However, the claim language is currently overly broad in this regards, thus necessitating the above rejection.

Applicant may want to consider language indicating that the "desired support angle" of the housing is oblique to the supporting surface and that the actuator is a piston and cylinder (examiner has not yet considered these limitations).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3724

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached Mon-Thurs, 7:30AM-5PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KP

March 23, 2006



KENNETH E. PETERSON
PRIMARY EXAMINER